

REMARKS

Claims 1-17 are pending. Claims 1 and 6 have been amended. Claim 1 has been amended to recite the subject matter of claim 6. Claim 6 has been amended to depend solely from claim 2.

No new matter has been added by way of the above-amendment.

Wariishi (US 6,841,299) and Yoshida (US 2005/0231894)

The following rejections are based on Wariishi:

(A) Claims 1, 3-5, 12, 15 and 17 are rejected under 35 USC 102(e) as being anticipated by Wariishi; and

(B) Claim 16/1 is rejected under 35 USC 103(a) as being obvious over Wariishi in view of Yoshida (US 2005/0231894).

Applicants respectfully traverse the rejections.

Applicants respectfully submit that Wariishi does not anticipate nor render obvious the invention of claim 1 as recited in the May 17, 2005 Preliminary Amendment. However, in order to advance prosecution, Applicants have amended claim 1 to recite the subject matter of claim 6, a claim not currently under rejection. Accordingly, Rejection (A) under 35 USC 102(e) over Wariishi and Rejection (B) under 35 USC 103(a) over Wariishi in view of Yoshida are rendered moot.

The nonaqueous electrolyte of claim 1 contains an ion-conductive polymer having a relative permittivity at 25°C and 1 MHz of 5 to 50, so that cation and anion dissociation in the electrolyte is strongly promoted. As a result the ionic conductivity of the electrolyte is improved.

On the contrary, Wariishi et al. fail to disclose and teach a nonaqueous electrolyte containing an ion-conductive polymer having such a relative permittivity, and an effect brought by using such an ion-conductive polymer.

Accordingly, the electrolyte of claim 1 is neither anticipated nor rendered obvious over the disclosure of Wariishi.

Maruo et al. (US 2006/0035137) and Yoshida (US 2005/0231894)

The following rejections are based on Maruo et al.:

(C) Claims 1-15 and 17 are rejected under 35 USC 102(e) as being anticipated by Maruo et al. (hereinafter the '137 Application); and

(D) Claim 16 is rejected under 35 USC 103(a) as being obvious over the '137 Application in view of Yoshida (US 2005/0231894).

Applicants respectfully traverse the rejections.

Rejection (C) directly relates to 35 USC 102(e)(1) and Rejection (D) is a rejection under 35 USC 103(a) which is based on 35 USC 102(e)(1).

35 USC 102(e)(1) recites:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), ***by another*** filed in the United States before the invention by the applicant for patent... (Emphasis added).

The Examiner will note that a rejection under 35 USC 102(e)(1) [or an obviousness rejection under 35 USC 103(a) based upon 35 USC 102(e)(1)] is proper if the published application is "by another." For a published application to be "by another," there must be some difference in the inventorship. However, in the instant case, both the instant application and the

the '137 Application have exactly corresponding inventorship, i.e., both name the following people as inventors:

- 1) Maruo, Tatsuya;
- 2) Marukane, Shoko;
- 3) Masuda, Gen; *and*
- 4) Sato, Takaya.

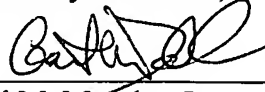
Accordingly, the '137 Application is not "by another." Therefore, both Rejection (C) and Rejection (D) are improper and withdrawal of the rejections is respectfully requested.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Garth M. Dahlen, Ph.D., Esq. (Reg. No. 43,575) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

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Respectfully submitted,

By  #43575
Gerald M. Murphy, Jr. For
Registration No.: 28,977
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant